



DEPARTMENT OF COMMERCE

International Trade Administration

[A-351-856]

Certain Aluminum Foil from Brazil: Final Affirmative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that imports of certain aluminum foil (aluminum foil) from Brazil are being, or are likely to be, sold in the United States at less than fair value (LTFV) for the period of investigation (POI) July 1, 2019, through June 30, 2020.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: George McMahon, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1167.

SUPPLEMENTARY INFORMATION:

Background

On May 4, 2021, Commerce published in the *Federal Register* the preliminary affirmative determination, and postponement of the final determination until September 16, 2021, in the LTFV investigation of aluminum foil from Brazil.¹ We invited interested parties to comment on the *Preliminary Determination*. A summary of the events that occurred since Commerce published the *Preliminary Determination* may be found in the Issues and Decision

¹ See *Certain Aluminum Foil from Brazil: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 86 FR 23678 (May 4, 2021), (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

Scope of the Investigation

The product covered by this investigation is aluminum foil from Brazil. For a complete description of the scope of this investigation, see Appendix I.

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,³ the *Initiation Notice*⁴ set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁵ Certain interested parties commented on the scope of this investigation as it appeared in the *Initiation Notice*, and we addressed these comments in the Preliminary Scope Decision Memorandum.⁶ Interested parties were provided an opportunity to comment on the Preliminary Scope Decision Memorandum.⁷ However, we received no scope case briefs requesting changes to the scope of the investigation from interested parties in any of the antidumping duty or countervailing duty investigations of aluminum foil from the Republic of Armenia, Brazil, the Sultanate of Oman, the Russian Federation, and the Republic of Turkey.⁸ Additionally, we received a letter from the petitioners urging Commerce to maintain the same scope language which was set forth in both the *Initiation Notice* or *Preliminary Determination*.⁹ Accordingly, Commerce is not modifying

² See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Certain Aluminum Foil from Brazil," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁴ See *Certain Aluminum Foil from the Republic of Armenia, Brazil, the Sultanate of Oman, the Russian Federation, and the Republic of Turkey: Initiation of Less-Than-Fair-Value Investigations*, 85 FR 67711 (October 26, 2020) (*Initiation Notice*).

⁵ *Id.*

⁶ See Memorandum, "Antidumping and Countervailing Duty Investigations of Certain Aluminum Foil from the Republic of Armenia, Brazil, the Sultanate of Oman, the Russian Federation, and the Republic of Turkey: Preliminary Scope Decision Memorandum," dated April 27, 2021 (Preliminary Scope Decision Memorandum).

⁷ *Id.*

⁸ See Petitioners' Letter, "Certain Aluminum Foil from the Republic of Armenia, Brazil, the Sultanate of Oman, the Russian Federation, and the Republic of Turkey – Petitioners' Final Scope Comments," dated September 8, 2021 (Petitioners' Final Scope Comments). On September 13, 2021, Commerce received a letter requesting that Commerce reject Petitioners' Final Scope Comments, to which Commerce rejected this request in its reply on September 15, 2021. See Matthew McConkey's Letter, "Certain Aluminum Foil from Armenia, Brazil, the Sultanate of Oman, the Russian Federation, and the Republic of Turkey: Comments Regarding Solicitation of Final Scope Comments," dated September 13, 2021; see also Commerce's Letter, "Antidumping Duty Investigations on Certain Aluminum Foil from Armenia, Brazil, the Sultanate of Oman, Russia, and the Republic of Turkey and Countervailing Duty Investigations of Certain Aluminum Foil from the Sultanate of Oman and the Republic of Turkey: Request to Reject Submission," dated September 15, 2021.

⁹ See Petitioners' Final Scope Comments.

the scope language as it appeared in the *Preliminary Determination*,¹⁰ which was unchanged from the *Initiation Notice*. See Appendix I for the final scope of the investigation.

Analysis of Comments Received

All the issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>.

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of an on-site verification to verify the information relied upon in making this final determination with respect to Companhia Brasileira de Alumínio¹¹ and CBA Itapissuma (collectively, CBA), in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act).¹²

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings related to our request for information in lieu of verification, we have made certain changes to the margin calculations for CBA. In light of these changes to the margin calculations and the resulting revised estimated weighted-average dumping margin for CBA, we have also revised the all-others rate. For a

¹⁰ *Id.*

¹¹ Counsel for this respondent clarified that the correct spelling of the company's name is Companhia Brasileira de Alumínio. See CBA's Letter, "Aluminum Foil from Brazil: Case Brief," dated July 9, 2021 at 1.

¹² See Commerce's Letter, "Remote Verification – Request for Documentation," dated June 15, 2021; see also CBA's Letter, "Aluminum Foil from Brazil: Response to the Questionnaire in Lieu of On-Site Verification," dated June 24, 2021. Commerce did not issue a similar request for documentation from the mandatory respondent, Arconic Ind. E Com de Metias LTDA (Arconic), because Arconic failed to timely respond to Commerce's questionnaires prior to the *Preliminary Determination*. See *Preliminary Determination*.

discussion of these changes, *see* the Issues and Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all other producers and exporters not individually investigated shall be equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding rates that are zero, *de minimis*, or determined entirely under section 776 of the Act.

Commerce calculated an individual estimated weighted-average dumping margin for CBA and assigned a rate based entirely on facts available to Arconic, the two respondents selected for individual examination in this investigation. Because the only individually calculated dumping margin not zero, *de minimis*, or based entirely on facts otherwise available, is the estimated weighted-average dumping margin calculated for CBA, we have assigned the margin calculated for CBA to all other producers and exporters, pursuant to section 735(c)(5)(A) of the Act.

Final Determination

Pursuant to section 735 of the Act, the final estimated weighted-average dumping margins are as follows:

Exporter or Producer	Estimated Weighted-Average Dumping Margin (percent)
Arconic Ind. E Com de Metias LTDA	63.05*
Companhia Brasileira de Alumínio/ CBA Itapissuma ¹³	13.93
All Others	13.93

*Adverse Facts Available (AFA).

¹³ Commerce preliminarily determined that Companhia Brasileira de Alumínio and CBA Itapissuma are affiliated, within the meaning of sections 771(33)(E) and (G) of the Act, and should be treated as a single entity, in accordance with 19 CFR 351.401(f). *See Preliminary Decision Memorandum*. Commerce received no comments regarding this preliminary determination. Accordingly, Commerce continues to find that Companhia Brasileira de Alumínio and CBA Itapissuma are affiliated and continues to treat these companies as a single entity.

Disclosure

We intend to disclose the calculations performed in this final determination within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend the liquidation of all appropriate entries of subject merchandise, as described in Appendix I of this notice, entered, or withdrawn from warehouse, for consumption on or after May 4, 2021, the date of publication in the *Federal Register* of the affirmative *Preliminary Determination*.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), where appropriate, we will instruct CBP to require a cash deposit for such entries of merchandise equal to the estimated weighted-average dumping margin or estimated all-others rate, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this final determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the

likelihood of sales) for importation of aluminum foil from Brazil no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all cash deposits posted will be refunded and suspension of liquidation will be lifted. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

Notification Regarding Administrative Protective Orders

This notice will serve as a final reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination and this notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: September 16, 2021.

James Maeder,
Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is aluminum foil having a thickness of 0.2 mm or less, in reels exceeding 25 pounds, regardless of width. Aluminum foil is made from an aluminum alloy that contains more than 92 percent aluminum. Aluminum foil may be made to ASTM specification ASTM B479, but can also be made to other specifications. Regardless of specification, however, all aluminum foil meeting the scope description is included in the scope, including aluminum foil to which lubricant has been applied to one or both sides of the foil.

Excluded from the scope of this investigation is aluminum foil that is backed with paper, paperboard, plastics, or similar backing materials on one side or both sides of the aluminum foil, as well as etched capacitor foil and aluminum foil that is cut to shape. Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above. The products under investigation are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7607.11.3000, 7607.11.6090, 7607.11.9030, 7607.11.9060, 7607.11.9090, and 7607.19.6000.

Further, merchandise that falls within the scope of this proceeding may also be entered into the United States under HTSUS subheadings 7606.11.3060, 7606.11.6000, 7606.12.3045, 7606.12.3055, 7606.12.3091, 7606.12.3096, 7606.12.6000, 7606.91.3095, 7606.91.6095, 7606.92.3035, and 7606.92.6095. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Changes Since the Preliminary Determination
- IV. Discussion of the Issues
- V. Recommendation

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